

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

- against -

FRANK CACACE, M.D.,

Defendant.

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COMPLAINT

Civil Action
No.

Plaintiff UNITED STATES OF AMERICA, by its attorney, BREON PEACE, United States Attorney for the Eastern District of New York, Diane C. Leonardo, Assistant U.S. Attorney, of counsel, hereby alleges for its complaint upon information and belief:

1. This is a civil action seeking penalties and injunctive relief under the Controlled Substances Act, as amended, 21 U.S.C. § 801 et seq. (the “CSA”).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 21 U.S.C. §§ 842(c)(1) and 843(f)(2) and 28 U.S.C. §§ 1331, 1345 and 1355(a).

3. Venue is proper in the Eastern District of New York pursuant to 21 U.S.C. § 843(f)(2) and 28 U.S.C. §§ 1395(a).

THE DEFENDANT

4. Defendant Frank Cacace, M.D. (the “Defendant” or “Cacace”), practices medicine in Nassau County, New York, and is licensed to practice as a doctor of medicine in the State of New York. At all times relevant to this action, Defendant was registered with the Drug

Enforcement Administration (“DEA”) under DEA registration number # BC4459598.

FACTUAL BACKGROUND

5. Plaintiff repeats and realleges paragraphs 1 through 4 as if fully set forth herein.

6. At all times relevant to this action, oxycodone and fentanyl were Schedule II controlled substances pursuant to 21 U.S.C. § 812 (c) and 21 C.F.R. §1308.12 (b) and (c).

7. On or about and between August 2018 through and including August 2021, Defendant wrote purported prescriptions for Schedule II controlled substances, specifically for 37 purported prescriptions for oxycodone and fentanyl, and 37 purported prescriptions of diazepam, a Schedule IV controlled substance, to Patient A.

8. Information concerning the purported prescriptions issued to patient A is set forth in Appendix A hereto, which is incorporated by reference as if fully set forth herein.

9. On or about and between March 2017 and June 2021, Defendant wrote 43 purported prescriptions for oxycodone, a Schedule II controlled substance for Patient B.

10. Information concerning the purported prescriptions issued to Patient B is set forth in Appendix B hereto, which is incorporated by reference as if fully set forth herein.

11. None of the purported prescriptions referenced in Appendices A and B were issued by Defendant for a legitimate medical purpose in the usual course of professional practice, in violation of 21 U.S.C. § 829 (a) and 21 C.F.R. § 1306.04 (a), because *inter alia*, Defendant did not examine Patients A and B in person on the days that the purported prescriptions were issued, in violation of 21 U.S.C. § 829 (a) and 21 C.F.R. § 1306.04 (a).

FIRST CLAIM FOR RELIEF

12. Plaintiff repeats and realleges paragraphs 1 through 10 as if fully set forth herein.

13. As a result of the foregoing, Defendant is liable to the United States of America in an amount of not more than \$80,850 dollars for each purported prescription, pursuant to 21 U.S.C. § 842 (c)(1)(A).

SECOND CLAIM FOR RELIEF

14. Plaintiff repeats and realleges paragraphs 1 through 12 as if fully set forth herein.

15. As a result of the violations set forth herein Defendant is liable for injunctive relief pursuant to 21 U.S.C. § 843(f).

WHEREFORE, plaintiff United States of America respectfully requests that:

1. Judgment be entered against Defendant in an amount to be determined on the First Claim for Relief;
2. The Court award Plaintiff injunctive relief on the Second Claim for Relief;
3. Plaintiff be awarded its reasonable costs and disbursements in this action; and
4. The Court grant such other and further relief as the Court may deem just and proper.

Dated: Central Islip, New York
November 21, 2024

BREON PEACE
United States Attorney
Eastern District of New York
Attorney for Plaintiff
610 Federal Plaza
Central Islip, New York 11722

By: /s/Diane C. Leonardo
Diane C. Leonardo
Assistant United States Attorney
(631) 715-7854

APPENDIX A

Patient A - August 2018 through August 2021		
Date of RX	Controlled Substance	Dosage
08/08/18	DIAZEPAM	2 MG
09/07/18	DIAZEPAM	2 MG
10/03/18	DIAZEPAM	2 MG
11/01/18	DIAZEPAM	2 MG
11/29/18	DIAZEPAM	2 MG
12/27/18	DIAZEPAM	2 MG
01/24/19	DIAZEPAM	2 MG
02/28/19	DIAZEPAM	2 MG
05/02/19	DIAZEPAM	2 MG
05/31/19	DIAZEPAM	2 MG
07/01/19	DIAZEPAM	2 MG
08/02/19	DIAZEPAM	2 MG
09/10/19	DIAZEPAM	2 MG
10/09/19	DIAZEPAM	2 MG
11/11/19	DIAZEPAM	2 MG
12/10/19	DIAZEPAM	2 MG
01/13/20	DIAZEPAM	2 MG
02/13/20	DIAZEPAM	2 MG
03/17/20	DIAZEPAM	2 MG
04/20/20	DIAZEPAM	2 MG
05/21/20	DIAZEPAM	2 MG
06/19/20	DIAZEPAM	2 MG
07/22/20	DIAZEPAM	2 MG
08/24/20	DIAZEPAM	2 MG
09/23/20	DIAZEPAM	2 MG
10/23/20	DIAZEPAM	2 MG
11/20/20	DIAZEPAM	2 MG
12/21/20	DIAZEPAM	2 MG
01/22/21	DIAZEPAM	2 MG
02/22/21	DIAZEPAM	2 MG
03/24/21	DIAZEPAM	2 MG
04/22/21	DIAZEPAM	2 MG
05/24/21	DIAZEPAM	2 MG
06/23/21	DIAZEPAM	2 MG
07/26/21	DIAZEPAM	2 MG
08/08/18	FENTANYL	75 MCG
10/03/18	FENTANYL	75 MCG
11/01/18	FENTANYL	75 MCG
11/29/18	FENTANYL	75 MCG
12/27/18	FENTANYL	75 MCG
02/28/19	FENTANYL	75 MCG
04/24/19	FENTANYL	75 MCG
05/02/19	FENTANYL	100 MCG
07/01/19	FENTANYL	100 MCG
08/02/19	FENTANYL	100 MCG

Patient A - August 2018 through August 2021		
Date of RX	Controlled Substance	Dosage
09/10/19	FENTANYL	100 MCG
10/09/19	FENTANYL	100 MCG
11/11/19	FENTANYL	100 MCG
12/10/19	FENTANYL	100 MCG
01/13/20	FENTANYL	100 MCG
02/13/20	FENTANYL	100 MCG
03/17/20	FENTANYL	100 MCG
04/22/20	FENTANYL	100 MCG
05/21/20	FENTANYL	100 MCG
06/19/20	FENTANYL	100 MCG
07/22/20	FENTANYL	100 MCG
08/24/20	FENTANYL	100 MCG
09/23/20	FENTANYL	100 MCG
10/23/20	FENTANYL	100 MCG
11/20/20	FENTANYL	100 MCG
12/21/20	FENTANYL	100 MCG
01/22/21	FENTANYL	100 MCG
02/22/21	FENTANYL	100 MCG
03/24/21	FENTANYL	100 MCG
04/22/21	FENTANYL	100 MCG
05/24/21	FENTANYL	100 MCG
06/23/21	FENTANYL	100 MCG
07/26/21	FENTANYL	100 MCG
08/08/18	OXYCODONE	30 MG
09/07/18	OXYCODONE	30 MG
10/03/18	OXYCODONE	30 MG
11/01/18	OXYCODONE	30 MG
11/29/18	OXYCODONE	30 MG
12/27/18	OXYCODONE	30 MG
01/24/19	OXYCODONE	30 MG
02/28/19	OXYCODONE	30 MG
05/02/19	OXYCODONE	30 MG
05/31/19	OXYCODONE	30 MG
07/01/19	OXYCODONE	30 MG
08/02/19	OXYCODONE	30 MG
09/10/19	OXYCODONE	30 MG
10/09/19	OXYCODONE	30 MG
11/11/19	OXYCODONE	30 MG
12/10/19	OXYCODONE	30 MG
01/13/20	OXYCODONE	30 MG
02/13/20	OXYCODONE	30 MG
03/17/20	OXYCODONE	30 MG
04/20/20	OXYCODONE	30 MG
05/21/20	OXYCODONE	30 MG
06/19/20	OXYCODONE	30 MG

Patient A - August 2018 through August 2021		
Date of RX	Controlled Substance	Dosage
07/22/20	OXYCODONE	30 MG
08/24/20	OXYCODONE	30 MG
09/23/20	OXYCODONE	30 MG
10/23/20	OXYCODONE	30 MG
11/20/20	OXYCODONE	30 MG
12/21/20	OXYCODONE	30 MG
01/22/21	OXYCODONE	30 MG
02/22/21	OXYCODONE	30 MG
03/24/21	OXYCODONE	30 MG
04/22/21	OXYCODONE	30 MG
05/24/21	OXYCODONE	30 MG
06/23/21	OXYCODONE	30 MG
07/26/21	OXYCODONE	30 MG

APPENDIX B

Patient B - March 2017 through June 2021		
Date of RX	Controlled Substance	Dosage
3/23/2017	OXYCODONE	30 MG
4/22/2017	OXYCODONE	30 MG
5/24/2017	OXYCODONE	30 MG
7/18/2017	OXYCODONE	30 MG
8/15/2017	OXYCODONE	30 MG
9/13/2017	OXYCODONE	30 MG
10/12/2017	OXYCODONE	30 MG
11/15/2017	OXYCODONE	30 MG
12/15/2017	OXYCODONE	30 MG
1/17/2018	OXYCODONE	30 MG
2/20/2018	OXYCODONE	30 MG
3/19/2018	OXYCODONE	30 MG
4/19/2018	OXYCODONE	30 MG
5/18/2018	OXYCODONE	30 MG
6/19/2018	OXYCODONE	30 MG
8/20/2018	OXYCODONE	30 MG
9/19/2018	OXYCODONE	30 MG
10/18/2018	OXYCODONE	30 MG
11/16/2018	OXYCODONE	30 MG
12/14/2018	OXYCODONE	30 MG
1/18/2019	OXYCODONE	30 MG
2/20/2019	OXYCODONE	30 MG
3/20/2019	OXYCODONE	30 MG
4/20/2019	OXYCODONE	30 MG
5/20/2019	OXYCODONE	30 MG
6/20/2019	OXYCODONE	30 MG
8/1/2019	OXYCODONE	30 MG
8/31/2019	OXYCODONE	30 MG
10/4/2019	OXYCODONE	30 MG
11/5/2019	OXYCODONE	30 MG
12/4/2019	OXYCODONE	30 MG
1/2/2020	OXYCODONE	30 MG
1/31/2020	OXYCODONE	30 MG
3/4/2020	OXYCODONE	30 MG
4/3/2020	OXYCODONE	30 MG
5/1/2020	OXYCODONE	30 MG
6/1/2020	OXYCODONE	30 MG
6/30/2020	OXYCODONE	30 MG
7/30/2020	OXYCODONE	30 MG
8/28/2020	OXYCODONE	30 MG
9/30/2020	OXYCODONE	30 MG
10/29/2020	OXYCODONE	30 MG
12/2/2020	OXYCODONE	30 MG
1/1/2021	OXYCODONE	30 MG
2/3/2021	OXYCODONE	30 MG
3/3/2021	OXYCODONE	30 MG
4/2/2021	OXYCODONE	30 MG
5/6/2021	OXYCODONE	30 MG
6/4/2021	OXYCODONE	30 MG